

Amended Draft Environmental Assessment

Hay Creek Land Acquisition



Prepared by R-1 Fisheries
Final Draft: September 25, 2008
Amended Draft: December 12, 2008



***Montana Fish,
Wildlife & Parks***

**Hay Creek Land Acquisition
Amended Draft Environmental Assessment
MEPA, NEPA, MCA 23-1-110 CHECKLIST**

PART I. PROPOSED ACTION DESCRIPTION

1. Type of proposed state action: Land purchase using BPA fisheries mitigation funds with land subject to Bonneville Power Administration (BPA) conservation easement

2. Agency authority: State statute 87-1-209 defines the authority Montana Fish, Wildlife & Parks has in acquiring land for the restoration, propagation, and/or protection of game, birds, fish, or fur-bearing animals.

Additionally, 75-7-101 of the Montana Code Annotated provides protection to natural rivers and streambeds and the lands and property immediately adjacent to them to be protected and preserved in order to keep soil erosion and sedimentation to a minimum.

3. Name of project: Hay Creek Land Acquisition

4. Anticipated schedule:

Estimated completion date: March 31, 2009

5. Location affected by proposed action:

Flathead County, Township 34 N, Range 21 W, Sections 2 & 3

6. Project size: 53 acres

	<u>Acres</u>		<u>Acres</u>
(a) Developed:		(d) Floodplain	<u>33</u>
Residential	<u>0</u>		
Industrial	<u>0</u>	(e) Productive:	
(existing shop area)		Irrigated cropland	<u>0</u>
(b) Open Space/	<u>53</u>	Dry cropland	<u>0</u>
Woodlands/Recreation		Forestry	<u>20</u>
(c) Wetlands/Riparian	<u>33</u>	Rangeland	<u>0</u>
Areas		Other	<u>0</u>

7. Listing of any other local, state, or federal agency that has overlapping or additional jurisdiction.

(a) Permits: Permits will be filed at least 2 weeks prior to project start.

Agency Name Permits

No permits needed for acquisition.

(b) Funding:

<u>Agency Name</u>	<u>Funding Amount</u>
Bonneville Power Administration	\$400,000

(c) Other overlapping or additional jurisdictional responsibilities:

Agency Name Type of Responsibility

State Historic Preservation Office – cultural resources

8. 1 Proposal

In 2007, the Bonneville Power Administration (BPA), the Confederated Salish and Kootenai Tribes (CSKT) and Montana Fish Wildlife and Parks (FWP) entered into the *Memorandum of Agreement Between the Confederated Salish and Kootenai Tribes, the State of Montana and the Bonneville Power Administration for Resident Fish Mitigation* (hereinafter referred to as the "2008-2009 MOA"). The 2008-2009 MOA allows FWP to buy qualifying properties with BPA money to mitigate harmful impacts to resident fish resulting from the construction of Hungry Horse Dam and the subsequent inundation of a large portion of the South Fork Flathead River drainage. A copy of the 2008-2009 MOA is on file with the BPA Manager, Real Property Services, P.O. Box 3621, Portland, OR 97208-3621. In accordance with the 2008-2009 MOA, FWP now seeks to acquire ownership of a 53-acre parcel of land located on Hay Creek, a tributary to the North Fork Flathead River, at the same time providing a conservation easement to BPA. The purpose of this project is to preserve, create, enhance, restore, and protect the functional values of riparian lands, wetlands and other lands, and to conserve natural values including fish and wildlife habitat, water quality, flood water retention, groundwater recharge, open space, aesthetic values, and environmental education, consistent with the 2008-2009 MOA. As agreed to in the 2008-2009 MOA, and in conjunction with completing all final acquisition transactions, FWP will convey a conservation easement to BPA that protects the property for the purposes for which BPA funds the acquisition and insures the long-term protection of the parcel's habitat and other conservation values. BPA is providing all acquisition funding for the project.

The proposed Hay Creek land acquisition is located near the mouth of Hay Creek, has Class 2 fisheries habitat values according to the Flathead Sub-basin Plan (waters that have low to moderate levels of degradation and high to moderate protection value). This parcel was reviewed against other potential fisheries mitigation projects by a joint committee of fisheries biologists from FWP and the Confederated Salish and Kootenai Tribes and was jointly ranked second against other available projects in the Flathead Basin. This parcel has .37 miles (0.6 km) of high quality, intact, meandering fisheries habitat, with no development on the parcel. FWP proposes to secure this habitat for long-term protection of westslope cutthroat and bull trout. The parcel adjoins both Forest Service and Montana Department of Natural Resources lands and is used by elk, moose, grizzly and black bears, and many other wildlife species. Regional fisheries staff have previously improved stream channel habitat above and within this parcel. This acquisition would help insure that the habitat values of this stream section including those improved by fisheries staff are maintained in perpetuity. Approximate purchase price is \$400,000 and would be funded by BPA.

The current condition of the property is undeveloped and in a natural state. The aquatic and terrestrial values are high since this parcel sits in a fairly undeveloped area of the North Fork, but also is very close to the Wild and Scenic corridor of the North Fork of the Flathead River. Threatened and Endangered species such as grizzly bears and bald eagles have been observed in the wetlands area of this parcel. As is true with many places in Northwestern Montana, development is occurring. Due to the fact that the North Fork is zoned Ag-20, only 1 home per 20 acres is allowed.

8.2. Draft Conservation Easement Terms:

The conservation easement that will be held by BPA will allow compatible public uses to occur that do not impair or impact the conservation values of the parcel. The details of what public or other uses and activities will be provided in a draft Management Plan that FWP must provide BPA within 1 year of the property acquisition. This Management Plan will be the subject of a future FWP draft EA and public review process. FWP contemplates that dispersed recreation such as hunting, bird watching, education, hiking, and fishing would be allowable uses. Under state law and/or the terms of the conservation easement, FWP, as the owner of the parcel, will manage/control noxious weeds, pay property taxes, and fence or undertake other property maintenance activities to insure conservation of the habitat values.

The following are the uses that would be prohibited by the proposed conservation easement unless they are considered “compatible uses” in Part IV of the conservation easement specifically approved in a management plan agreed to by BPA:

1. Haying, and/or mowing;
2. Altering of grassland, woodland, wildlife habitat or other natural features by burning digging, plowing, disking, cutting or otherwise destroying the vegetative cover;
3. Dumping refuse, wastes, sewage or other debris;
4. Harvesting wood products;
5. Draining, dredging, channeling, filling, leveling, pumping, diking, impounding or related activities, as well as altering or tampering with water control structures or devices;
6. Diverting or causing or permitting the diversion of surface water into, or out of the easement area surface by any means;
7. Building or placing buildings or structures on the easement area;
8. Planting or harvesting any crop; and
9. Grazing or allowing livestock on the easement area.
10. Mining—excavation, dredging, or removal of soil, sand, gravel, rock, minerals or other surface or subsurface materials.
11. Incompatible Uses—surface use except for such purposes necessary to preserve, enhance, restore or create wetlands and riparian resource functions and values;
12. Acts Detrimental to Conservation—activities detrimental to conservation of the the following: fish and wildlife habitat, flood control, erosion control, water quality protection and enhancement, traditional cultural materials production, aesthetics, and low impact recreation;
13. Subdivision—subdivision of land into multiple independently platted parcels.

However, the use of the easement area for compatible economic uses, including, but not limited to, managed timber harvest, periodic haying, or grazing may be allowed if addressed and approved by BPA in the management plan for the property.

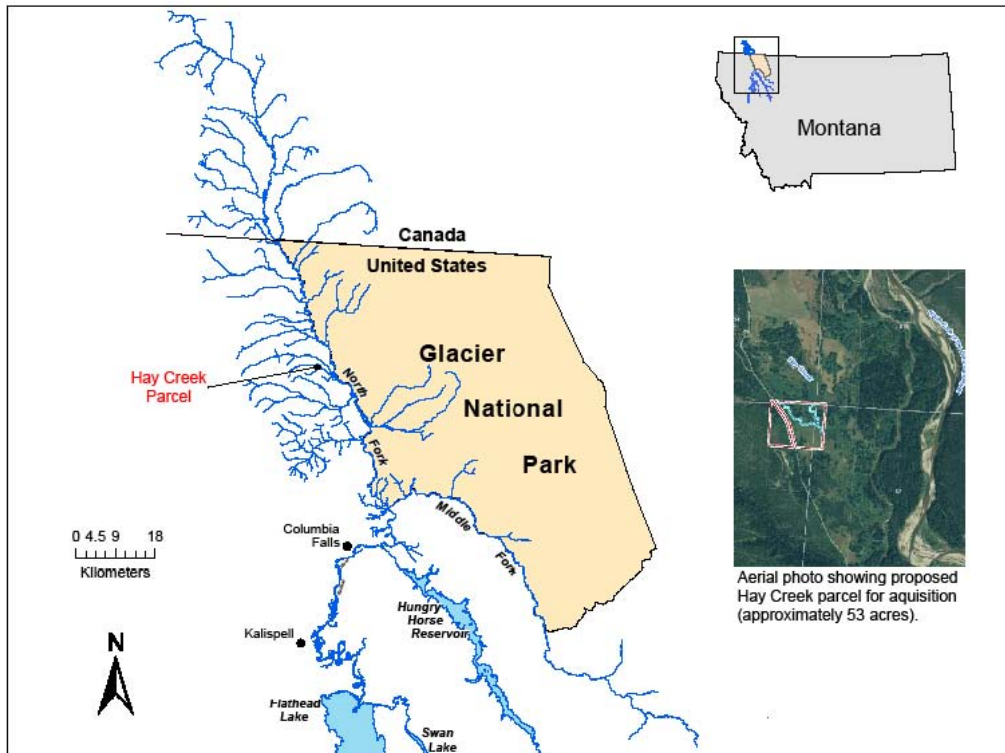


Figure 1. Hay Creek parcel location west of Glacier National Park and north of Columbia Falls, Montana, along the North Fork Road.

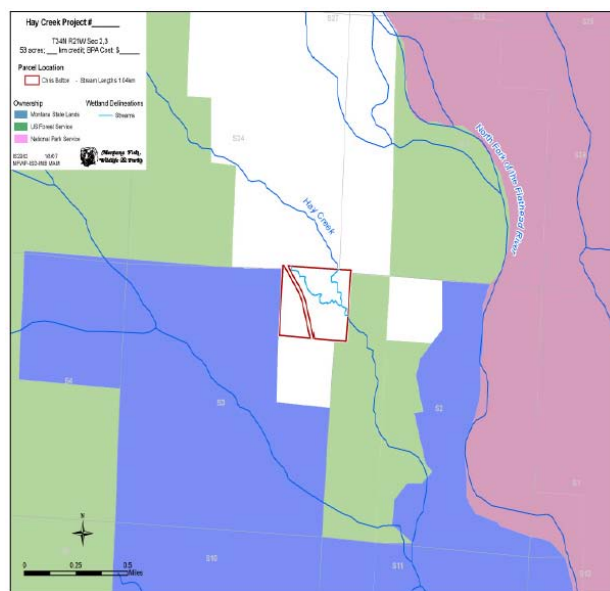


Figure 2. Location of proposed Hay Creek Parcel along the North Fork Road, about 40 miles north of Columbia Falls, Montana. The parcel is outlined in red (approximately 53 acres).

9. Alternatives:

Alternative A: No Action

The private landowners would continue to try to sell the parcel on the open market. The parcel is “for sale by owner” and does have 2-3 possible building sites on it for development if another entity purchased the property. If FWP cannot purchase this parcel, it is possible that CSKT would use this same funding source to purchase it or it would be eventually sold to another entity. If developed, the fisheries habitat values and restoration options may be impaired, altered, or limited, and wildlife values could be diminished.

Alternative B: Proposed Action

FWP proposes to use BPA funds to acquire 53 acres along Hay Creek subject to the BPA conservation easement to protect habitat, especially that benefiting bull trout and cutthroat trout. The acquisition would also protect forest habitat that supports other game and nongame species. The current owner is not interested in selling just a conservation easement to BPA or FWP.

PART II. ENVIRONMENTAL REVIEW CHECKLIST

1. Evaluation of the impacts of the Proposed Action including secondary and cumulative impacts on the Physical and Human Environment.

A. PHYSICAL ENVIRONMENT

1. <u>LAND RESOURCES</u> Will the proposed action result in:	IMPACT					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Soil instability or changes in geologic substructure?		X				
b. Disruption, displacement, erosion, compaction, moisture loss, or over-covering of soil, which would reduce productivity or fertility?		X				
c. Destruction, covering or modification of any unique geologic or physical features?		X				
d. Changes in siltation, deposition, or erosion patterns that may modify the channel of a river or stream or the bed or shore of a lake?		X				
e. Exposure of people or property to earthquakes, landslides, ground failure, or other natural hazard?		X				
f. Other:						1.f.

1.f. No development will occur on this parcel as it is not FWP's mission to develop lands nor is it allowed in the terms of the conservation easement to be granted to BPA as part of this project. A major portion of the parcel is wetlands. There should be no effects on the land resources on this parcel through acquisition and ownership by FWP. No site development would occur. We foresee no problems associated with the North Fork road on wetlands or fisheries habitat on this parcel.

2. <u>AIR</u> Will the proposed action result in:	IMPACT					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Emission of air pollutants or deterioration of ambient air quality? (Also see 13 (c).)		X				
b. Creation of objectionable odors?		X				
c. Alteration of air movement, moisture, or temperature patterns, or any change in climate, either locally or regionally?		X				
d. Adverse effects on vegetation, including crops, due to increased emissions of pollutants?		X				
e. For P-R/D-J projects, will the project result in any discharge, which will conflict with federal or state air quality regs? (Also see 2a.)		X				2.f.
f. Other:						

2. f. There should be no impacts to air quality or air resources with this proposed land acquisition.

3. <u>WATER</u> Will the proposed action result in:	IMPACT					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Discharge into surface water or any alteration of surface water quality, including but not limited to temperature, dissolved oxygen, or turbidity?		X				
b. Changes in drainage patterns or the rate and amount of surface runoff?		X				
c. Alteration of the course or magnitude of floodwater or other flows?		X				3.c.
d. Changes in the amount of surface water in any water body or creation of a new water body?		X				
e. Exposure of people or property to water-related hazards such as flooding?		X				
f. Changes in the quality of groundwater?		X				
g. Changes in the quantity of groundwater?		X				
h. Increase in risk of contamination of surface or groundwater?		X				
i. Effects on any existing water right or reservation?		X				
j. Effects on other water users as a result of any alteration in surface or groundwater quality?		X				
k. Effects on other users as a result of any alteration in surface or groundwater quantity?		X				
l. For P-R/D-J, will the project affect a designated floodplain? (Also see 3c.)		X				
m. For P-R/D-J, will the project result in any discharge that will affect federal or state water quality regulations? (Also see 3a.)		X				
n. Other:						

3.c. The parcel will be left in its natural state as required under the conservation easement that will be held by BPA as part of this project, and there will be no alterations to the water resources, although the water channels will be left open for fish passage.

4. VEGETATION Will the proposed action result in?	IMPACT					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Changes in the diversity, productivity, or abundance of plant species (including trees, shrubs, grass, crops, and aquatic plants)?		X				
b. Alteration of a plant community?		X				4.b.
c. Adverse effects on any unique, rare, threatened, or endangered species?		X				
d. Reduction in acreage or productivity of any agricultural land?		X				
e. Establishment or spread of noxious weeds?		X				4.e.
f. For P-R/D-J, will the project affect wetlands, or prime and unique farmland?		X				
g. Other:		X				4.g.

4.b. Most of the property is of a wetland/riparian nature with a small portion of the property has timber on it. We see no immediate threat by bark beetles or any public safety or fire hazard. FWP would develop a management plan for threats to vegetation from pests or disease in conjunction with BPA.

4.e. The purpose of the purchase of this parcel is to protect native fish habitat for bull trout and westslope cutthroat trout. All riparian and wetland vegetation will be left in its natural state as alterations would be prohibited by the conservation easement held by BPA. However, if noxious weeds become a problem, FWP will take the actions required by state law and terms of the BPA conservation easement to control them per the 2008 FWP Statewide Noxious Weed Management Plan.

4.g. FWP would fence the property if livestock grazing were to occur on the adjoining properties. No grazing issues currently exist.

5. <u>FISH/WILDLIFE</u> Will the proposed action result in:	IMPACT					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Deterioration of critical fish or wildlife habitat?		X				
b. Changes in the diversity or abundance of game animals or bird species?		X				
c. Changes in the diversity or abundance of nongame species?		X				
d. Introduction of new species into an area?		X				
e. Creation of a barrier to the migration or movement of animals?		X				
f. Adverse effects on any unique, rare, threatened, or endangered species?		X				5.f.
g. Increase in conditions that stress wildlife populations or limit abundance (including harassment, legal or illegal harvest, or other human activity)?		X				
h. For P-R/D-J, will the project be performed in any area in which T&E species are present, and will the project affect any T&E species or their habitat? (Also see 5f.)		X				
i. For P-R/D-J, will the project introduce or export any species not presently or historically occurring in the receiving location? (Also see 5d.)		X				
j. Other:						

5.f. The purchased parcel will be left in its natural state, and there should be no negative effects on fish and wildlife habitat. FWP will not develop this site or encourage increased human activity on this site although there could be some dispersed recreational uses that will be analyzed in a separate Management Plan and environmental review.

B. HUMAN ENVIRONMENT

6. <u>NOISE/ELECTRICAL EFFECTS</u> Will the proposed action result in:	IMPACT					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Increases in existing noise levels?		X				6.a.
b. Exposure of people to severe or nuisance noise levels?		X				
c. Creation of electrostatic or electromagnetic effects that could be detrimental to human health or property?		X				
d. Interference with radio or television reception and operation?		X				
e. Other:						

6.a. The North Fork road passes right by the property, and there should be no increases of additional noise levels to the area.

7. <u>LAND USE</u> Will the proposed action result in:	IMPACT					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Alteration of or interference with the productivity or profitability of the existing land use of an area?		X				
b. Conflict with a designated natural area or area of unusual scientific or educational importance?		X				
c. Conflict with any existing land use, the presence of which would constrain or potentially prohibit the proposed action?		X				
d. Adverse effects on or relocation of residences?		X				
e. Other:						7.e.

7.e. The purchase should not affect existing land uses in the area. The past owner had left the land in its natural state with no development on it.

8. <u>RISK/HEALTH HAZARDS</u> Will the proposed action result in:	IMPACT					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Risk of an explosion or release of hazardous substances (including, but not limited to oil, pesticides, chemicals, or radiation) in the event of an accident or other forms of disruption?		X				
b. Affect an existing emergency response or emergency evacuation plan, or create a need for a new plan?		X				
c. Creation of any human health hazard or potential hazard?		X				
d. For P-R/D-J, will any chemical toxicants be used? (Also see 8a)		X				
e. Other:						8.e.

8.e. The purchase should not increase risks to human health, as the property will not be developed to increase human use of the area. There is inherent risk to the public when accessing public lands that have wildlife, water, or other natural conditions that occur on this parcel.

9. <u>COMMUNITY IMPACT</u> Will the proposed action result in:	IMPACT					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Alteration of the location, distribution, density, or growth rate of the human population of an area?		X				
b. Alteration of the social structure of a community?		X				
c. Alteration of the level or distribution of employment or community or personal income?		X				
d. Changes in industrial or commercial activity?		X				
e. Increased traffic hazards or effects on existing transportation facilities or patterns of movement of people and goods?		X				
f. Other:						

10. <u>PUBLIC SERVICES/TAXES/UTILITIES</u> Will the proposed action result in:	IMPACT					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Will the proposed action have an effect upon or result in a need for new or altered governmental services in any of the following areas: fire or police protection, schools, parks/recreational facilities, roads or other public maintenance, water supply, sewer or septic systems, solid waste disposal, health, or other governmental services? If any, specify:		X				
b. Will the proposed action have an effect upon the local or state tax base and revenues?		X				10 b.
c. Will the proposed action result in a need for new facilities or substantial alterations of any of the following utilities: electric power, natural gas, other fuel supply or distribution systems, or communications?		X				
d. Will the proposed action result in increased use of any energy source?		X				
e. Define projected revenue sources						
f. Define projected maintenance costs.		X				10 f.
g. Other:						

10b. FWP will pay property taxes to Flathead County; the value will be equal to taxes assessed to private lands.

10f. Maintenance costs in the present undeveloped state of this parcel will be minimal and will come from the FWP Region 1 BPA Fisheries mitigation budget.

11. <u>AESTHETICS/RECREATION</u> Will the proposed action result in:	IMPACT					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Alteration of any scenic vista or creation of an aesthetically offensive site or effect that is open to public view?		X				
b. Alteration of the aesthetic character of a community or neighborhood?		X				
c. Alteration of the quality or quantity of recreational/tourism opportunities and settings? (Attach Tourism Report.)		X				11.c.
d. For P-R/D-J, will any designated or proposed wild or scenic rivers, trails, or wilderness areas be impacted? (Also see 11a, 11c.)		X				
e. Other:						11.e.

11. c. & e. FWP's acquisition of this parcel could allow some passive dispersed public recreational uses that will be consistent with the purposes of FWP's acquisition and conservation easement on the property held by BPA. However, there will be no other changes from current land uses or development of any kind that would alter habitat characteristics or aesthetics, as that would be prohibited by the terms of the conservation easement that would be held by BPA. FWP will develop a management plan through public review process and will likely undertake some management activities that may be necessary to maintain habitat such as managing noxious weeds. The parcel will remain in its natural condition to benefit fish and wildlife habitat.

12. <u>CULTURAL/HISTORICAL RESOURCES</u> Will the proposed action result in:	IMPACT					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Destruction or alteration of any site, structure or object of prehistoric, historic, or paleontological importance?		X				12 a.
b. Physical change that would affect unique cultural values?		X				
c. Effects on existing religious or sacred uses of a site or area?		X				
d. For P-R/D-J, will the project affect historic or cultural resources? Attach SHPO letter of clearance. (Also see 12.a.)		X				12 d.
e. Other:						

12a & 12d. See Appendix A

SIGNIFICANCE CRITERIA

13. <u>SUMMARY EVALUATION OF SIGNIFICANCE</u> Will the proposed action, considered as a whole:	IMPACT					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Have impacts that are individually limited, but cumulatively considerable? (A project or program may result in impacts on two or more separate resources that create a significant effect when considered together or in total.)		X				
b. Involve potential risks or adverse effects, which are uncertain but extremely hazardous if they were to occur?		X				
c. Potentially conflict with the substantive requirements of any local, state, or federal law, regulation, standard, or formal plan?		X				
d. Establish a precedent or likelihood that future actions with significant environmental impacts will be proposed?		X				
e. Generate substantial debate or controversy about the nature of the impacts that would be created?		X				13 e.
f. <u>For P-R/D-J</u> , is the project expected to have organized opposition or generate substantial public controversy? (Also see 13e.)		X				
g. <u>For P-R/D-J</u> , list any federal or state permits required.		X				

13e. The parcel will be left in its natural state for the benefit of fish and wildlife habitat and species. FWP does not anticipate changing land use, developing the land, or changing the characteristics of the parcel, as it would be prohibited by the terms of the conservation easement to be held by BPA for this parcel. This project will benefit migratory habitat for both fish and wildlife that move through the river system or use adjoining public and private lands.

2. Evaluation and listing of mitigation, stipulation, or other control measures enforceable by the agency or another government agency: Not applicable.

PART III. NARRATIVE EVALUATION AND COMMENT

This analysis did not reveal any significant impacts to the human or physical environment. The proposed project consists of transfer of ownership from private to the state of Montana for the purposes of fisheries habitat mitigation. No additional construction or improvements of any kind are included in this proposal.

PART IV. PUBLIC PARTICIPATION

1. Public involvement for this project:

This draft EA project first underwent a previous 21-day public review starting on September 25, 2008. That review included notices placed in the Hungry Horse News and Daily Inter Lake and direct mailings to neighboring property owners, local conservation groups, and other area outdoor organizations. However, this previous review did not fully outline the fact that the Hay Creek acquisition would be subject to a conservation easement held by BPA or the terms of that conservation easement. So we have amended the draft EA with this new information and are repeating public review of this project to include the details of the BPA conservation easement. The revised draft is available for public review and comment from December 12, 2008, through January 9, 2009.

The public will be notified in the following manners to comment on this current revised draft EA, the proposed action, and alternatives:

- Two public notices in each of these papers: The Daily Inter Lake, Hungry Horse News
- One statewide press release
- Public notice on the Fish, Wildlife & Parks web site: <http://fwp.mt.gov>

Notification of this environmental assessment will be sent to the neighboring landowners and interested parties to ensure their knowledge of the proposed project.

This level of public notice and participation is appropriate for a project of this scope, having limited impacts, many of which can be mitigated.

2. Duration of comment period:

The public comment period will be 28 days, from December 12, 2008, through January 9, 2009. Comments may be e-mailed to jwachsmuth@mt.gov, or written comments may be sent to the following address:

John L. Wachsmuth
Fisheries Conservation Specialist
Montana Fish, Wildlife & Parks
490 N. Meridian Road
Kalispell, MT 59901

PART V. EA PREPARATION

1. Based on the significance criteria evaluated in this EA, is an EIS required? No.

Based on an evaluation of impacts to the physical and human environment under MEPA, this environmental review revealed no significant negative impacts from the proposed action: therefore, an EIS is not necessary and an environmental assessment is the appropriate level of analysis.

2. Person(s) responsible for preparing the EA:

John Wachsmuth, Fisheries Conservation Specialist (406) 751-4554
Gael Bissell, Habitat Conservation Biologist

3. List of agencies consulted during preparation of the EA:

Confederated Salish and Kootenai Tribes
Montana Fish, Wildlife & Parks
 Fisheries Division
 Lands
 Legal Bureau
 Wildlife Division
Montana State Historic Preservation Office (SHPO)

APPENDIX A

Clearance Letter – State Historic Preservation Office

Nancy Ivy
FWP
490 N Meridian Road
Kalsipell MT 59901

RE: HAY CREEK LAND ACQUISITION. SHPO Project #: 2008090809

Dear Nancy:

I have conducted a cultural resource file search for the above-cited project located in Sections 2, 3, T34N R21W. According to our records there has been one previously recorded site within the designated search locales. Site 24FH0960 is a portion of the historic Main Canadian Trail. In addition to the sites there have been a few previously conducted cultural resource inventories done in the areas. If you would like any further information regarding the site or reports you may contact me at the number listed below.

We feel that there is a low likelihood cultural properties will be impacted with this land acquisition. We, therefore, feel that a recommendation for a cultural resource inventory is unwarranted at this time. However, should future projects in this area contain any ground disturbing activities we would ask that a cultural resource inventory be conducted prior to any ground disturbing activities.

If you have any further questions or comments you may contact me at (406) 444-7767 or by e-mail at dmurdo@mt.gov <<mailto:dmurdo@mt.gov>>. Thank you for consulting with us.
Sincerely,

Damon Murdo
Cultural Records Manager